

1 **Project 1245**

2 **VIRGINIA SOIL AND WATER CONSERVATION BOARD**

3 **Amend the General Permit for Discharges of Stormwater from Construction Activities**
4 **found in Part XIV**

5 **August 13, 2008 version**
6

7 NOTE: Changed language from the existing permit has been highlighted (underlined - new
8 language; ~~strike-through~~ - language to be removed). Language changed following the first TAC
9 meeting has been highlighted in light blue.
10

11 **4VAC50-60-10. Definitions.**

12 The following words and terms used in this chapter have the following meanings unless the
13 context clearly indicates otherwise.

14 "Adequate channel" means a channel that will convey the designated frequency storm event
15 without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

16 "Administrator" means the Administrator of the United States Environmental Protection
17 Agency or an authorized representative.

18 "Applicable standards and limitations" means all state, interstate, and federal standards and
19 limitations to which a discharge or a related activity is subject under the Clean Water Act (CWA)
20 (33 USC §1251 et seq.) and the Act, including effluent limitations, water quality standards,
21 standards of performance, toxic effluent standards or prohibitions, best management practices,
22 and standards for sewage sludge use or disposal under §§301, 302, 303, 304, 306, 307, 308, 403
23 and 405 of CWA.

24 "Approval authority" means the Virginia Soil and Water Conservation Board or their
25 designee.

26 "Approved program" or "approved state" means a state or interstate program that has been
27 approved or authorized by EPA under 40 CFR Part 123 (2000).

28 "Aquatic bench" means a 10- to 15-foot wide bench around the inside perimeter of a
29 permanent pool that ranges in depth from zero to 12 inches. Vegetated with emergent plants, the

bench augments pollutant removal, provides habitats, conceals trash and water level fluctuations, and enhances safety.

"Average land cover condition" means a measure of the average amount of impervious surfaces within a watershed, assumed to be 16%. Note that a locality may opt to calculate actual watershed-specific values for the average land cover condition based upon 4VAC50-60-110.

"Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

"Average weekly discharge limitation" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

"Best management practice (BMP)" means schedules of activities, prohibitions of practices, including both a structural or nonstructural practice, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Bioretention basin" means a water quality BMP engineered to filter the water quality volume through an engineered planting bed, consisting of a vegetated surface layer (vegetation, mulch, ground cover), planting soil, and sand bed, and into the in-situ material.

"Bioretention filter" means a bioretention basin with the addition of a sand filter collector pipe system beneath the planting bed.

"Board" means the Virginia Soil and Water Conservation Board.

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Channel" means a natural or manmade waterway.

"Constructed wetlands" means areas intentionally designed and created to emulate the water quality improvement function of wetlands for the primary purpose of removing pollutants from stormwater.

"Construction activity" means any clearing, grading or excavation associated with large construction activity or associated with small construction activity.

"Contiguous zone" means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR 11906).

"Continuous discharge" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

"Control measure" means any best management practice or other method used to prevent or reduce the discharge of pollutants to surface waters.

"Co-operator" means an operator to a VSMP permit that is only responsible for permit conditions relating to the discharge for which it is the operator.

"Clean Water Act" or "CWA" means the federal Clean Water Act (33 USC §1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

"CWA and regulations" means the Clean Water Act (CWA) and applicable regulations published in the Code of Federal Regulations (CFR) promulgated thereunder. For the purposes of this chapter, it includes state program requirements.

"Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

"Department" means the Department of Conservation and Recreation.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

"Direct discharge" means the discharge of a pollutant.

"Director" means the Director of the Department of Conservation and Recreation or his designee.

"Discharge," when used without qualification, means the discharge of a pollutant.

"Discharge of a pollutant" means:

1. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or

2. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into surface waters from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

"Discharge Monitoring Report" or "DMR" means the form supplied by the department, or an equivalent form developed by the operator and approved by the board, for the reporting of self-monitoring results by operators.

"Draft permit" means a document indicating the board's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination is not a draft permit. A proposed permit is not a draft permit.

"Effluent limitation" means any restriction imposed by the board on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into surface waters, the waters of the contiguous zone, or the ocean.

"Effluent limitations guidelines" means a regulation published by the administrator under §304(b) of the CWA to adopt or revise effluent limitations.

"Environmental Protection Agency (EPA)" means the United States Environmental Protection Agency.

118 "Existing permit" means for the purposes of this chapter a permit issued by the permit-
119 issuing authority and currently held by a permit applicant.

120 "Existing source" means any source that is not a new source or a new discharger.

121 "Facilities or equipment" means buildings, structures, process or production equipment or
122 machinery that form a permanent part of a new source and that will be used in its operation, if
123 these facilities or equipment are of such value as to represent a substantial commitment to
124 construct. It excludes facilities or equipment used in connection with feasibility, engineering, and
125 design studies regarding the new source or water pollution treatment for the new source.

126 "Facility or activity" means any VSMP point source or treatment works treating domestic
127 sewage or any other facility or activity (including land or appurtenances thereto) that is subject to
128 regulation under the VSMP program.

129 **"Final stabilization" means...**

130 "Flooding" means a volume of water that is too great to be confined within the banks or walls
131 of the stream, water body or conveyance system and that overflows onto adjacent lands, causing
132 or threatening damage.

133 "General permit" means a VSMP permit authorizing a category of discharges under the CWA
134 and the Act within a geographical area.

135 "Grassed swale" means an earthen conveyance system which is broad and shallow with
136 erosion resistant grasses and check dams, engineered to remove pollutants from stormwater
137 runoff by filtration through grass and infiltration into the soil.

138 "Hazardous substance" means any substance designated under the Code of Virginia and 40
139 CFR Part 116 (2000) pursuant to §311 of the CWA.

140 "Hydrologic Unit Code" or "HUC" means a watershed unit established in the most recent
141 version of Virginia's 6th Order National Watershed Boundary Dataset.

142 "Illicit discharge" means any discharge to a municipal separate storm sewer that is not
143 composed entirely of stormwater, except discharges pursuant to a VPDES or VSMP permit
144 (other than the VSMP permit for discharges from the municipal separate storm sewer),
145 discharges resulting from fire fighting activities, and discharges identified by and in compliance
146 with 4VAC50-60-1220 C 2.

147 "Impervious cover" means a surface composed of any material that significantly impedes or
148 prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited to,
149 roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

150 "Incorporated place" means a city, town, township, or village that is incorporated under the
151 Code of Virginia.

152 "Indian country" means (i) all land within the limits of any Indian reservation under the
153 jurisdiction of the United States government, notwithstanding the issuance of any patent, and
154 including rights-of-way running through the reservation; (ii) all dependent Indian communities
155 with the borders of the United States whether within the originally or subsequently acquired
156 territory thereof, and whether within or without the limits of a state; and (iii) all Indian
157 allotments, the Indian titles to which have not been extinguished, including rights-of-way
158 running through the same.

159 "Indirect discharger" means a nondomestic discharger introducing "pollutants" to a "publicly
160 owned treatment works (POTW)."

161 "Infiltration facility" means a stormwater management facility that temporarily impounds
162 runoff and discharges it via infiltration through the surrounding soil. While an infiltration facility
163 may also be equipped with an outlet structure to discharge impounded runoff, such discharge is
164 normally reserved for overflow and other emergency conditions. Since an infiltration facility
165 impounds runoff only temporarily, it is normally dry during nonrainfall periods. Infiltration
166 basin, infiltration trench, infiltration dry well, and porous pavement shall be considered
167 infiltration facilities.

168 "Inspection" means an on-site review of the project's compliance with the permit, the local
169 stormwater management program, and any applicable design criteria, or an on-site review to
170 obtain information or conduct surveys or investigations necessary in the enforcement of the Act
171 and this chapter.

172 "Interstate agency" means an agency of two or more states established by or under an
173 agreement or compact approved by Congress, or any other agency of two or more states having
174 substantial powers or duties pertaining to the control of pollution as determined and approved by
175 the administrator under the CWA and regulations.

"Land disturbance" or "land-disturbing activity" means a manmade change to the land surface that potentially changes its runoff characteristics including any clearing, grading, or excavation associated with a construction activity regulated pursuant to the federal Clean Water Act, the Act, and this chapter.

"Large construction activity" means construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more.

"Large municipal separate storm sewer system" means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 250,000 or more as determined by the 1990 decennial census by the Bureau of Census (40 CFR Part 122 Appendix F (2000));

2. Located in the counties listed in 40 CFR Part 122 Appendix H (2000), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties;

3. Owned or operated by a municipality other than those described in subdivision 1 or 2 of this definition and that are designated by the board as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under subdivision 1 or 2 of this definition. In making this determination the board may consider the following factors:

a. Physical interconnections between the municipal separate storm sewers;

b. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in subdivision 1 of this definition;

c. The quantity and nature of pollutants discharged to surface waters;

d. The nature of the receiving surface waters; and

e. Other relevant factors.

4. The board may, upon petition, designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a

206 stormwater management regional authority based on a jurisdictional, watershed, or other
207 appropriate basis that includes one or more of the systems described in this definition.

208 "Linear development project" means a land-disturbing activity that is linear in nature such as,
209 but not limited to, (i) the construction of electric and telephone utility lines, and natural gas
210 pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other
211 related structures of a railroad company; ~~and~~ (iii) highway construction projects; (iv)
212 construction of stormwater channels and stream restoration activities. Private subdivision roads
213 or streets shall not be considered linear development projects.

214 "Local stormwater management program" or "local program" means a statement of the
215 various methods employed by a locality to manage the quality and quantity of runoff resulting
216 from land-disturbing activities and shall include such items as local ordinances, permit
217 requirements, policies and guidelines, technical materials, inspection, enforcement, and
218 evaluation consistent with the Act and this chapter. The ordinance shall include provisions to
219 require the control of after-development stormwater runoff rate of flow, the proper maintenance
220 of stormwater management facilities, and minimum administrative procedures.

221 "Locality" means a county, city, or town.

222 "Major facility" means any VSMP facility or activity classified as such by the regional
223 administrator in conjunction with the board.

224 "Major modification" means, for the purposes of this chapter, the modification or amendment
225 of an existing permit before its expiration that is not a minor modification as defined in this
226 regulation.

227 "Major municipal separate storm sewer outfall (or major outfall)" means a municipal separate
228 storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or
229 more or its equivalent (discharge from a single conveyance other than circular pipe which is
230 associated with a drainage area of more than 50 acres); or for municipal separate storm sewers
231 that receive stormwater from lands zoned for industrial activity (based on comprehensive zoning
232 plans or the equivalent), with an outfall that discharges from a single pipe with an inside
233 diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe
234 associated with a drainage area of two acres or more).

235 "Manmade" means constructed by man.

236 "Maximum daily discharge limitation" means the highest allowable daily discharge.

237 "Maximum extent practicable" or "MEP" means the technology-based discharge standard for
238 municipal separate storm sewer systems established by CWA §402(p). MEP is achieved, in part,
239 by selecting and implementing effective structural and nonstructural best management practices
240 (BMPs) and rejecting ineffective BMPs and replacing them with effective best management
241 practices (BMPs). MEP is an iterative standard, which evolves over time as urban runoff
242 management knowledge increases. As such, the operator's MS4 program must continually be
243 assessed and modified to incorporate improved programs, control measures, BMPs, etc., to attain
244 compliance with water quality standards.

245 "Medium municipal separate storm sewer system" means all municipal separate storm sewers
246 that are either:

247 1. Located in an incorporated place with a population of 100,000 or more but less than
248 250,000 as determined by the 1990 decennial census by the Bureau of Census (40 CFR Part 122
249 Appendix G (2000));

250 2. Located in the counties listed in 40 CFR Part 122 Appendix I (2000), except municipal
251 separate storm sewers that are located in the incorporated places, townships or towns within such
252 counties;

253 3. Owned or operated by a municipality other than those described in subdivision 1 or 2 of
254 this definition and that are designated by the board as part of the large or medium municipal
255 separate storm sewer system due to the interrelationship between the discharges of the
256 designated storm sewer and the discharges from municipal separate storm sewers described
257 under subdivision 1 or 2 of this definition. In making this determination the board may consider
258 the following factors:

259 a. Physical interconnections between the municipal separate storm sewers;

260 b. The location of discharges from the designated municipal separate storm sewer relative to
261 discharges from municipal separate storm sewers described in subdivision 1 of this definition;

262 c. The quantity and nature of pollutants discharged to surface waters;

263 d. The nature of the receiving surface waters; or

264 e. Other relevant factors.

4. The board may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in subdivisions 1, 2 and 3 of this definition.

"Minor modification" means, for the purposes of this chapter, minor modification or amendment of an existing permit before its expiration as specified in 4VAC50-60-640. Minor modification for the purposes of this chapter also means other modifications and amendments not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor permit modification or amendment does not substantially alter permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

"Municipal separate storm sewer" means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains:

1. Owned or operated by a federal, state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction or delegated authority for erosion and sediment control and stormwater management, or a designated and approved management agency under §208 of the CWA that discharges to surface waters;

2. Designed or used for collecting or conveying stormwater;

3. That is not a combined sewer; and

4. That is not part of a publicly owned treatment works.

"Municipal separate storm sewer system" or "MS4" means all separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems or designated under 4VAC50-60-380 A 1.

"Municipal Separate Storm Sewer System Management Program" or "MS4 Program" means a management program covering the duration of a permit for a municipal separate storm sewer system that includes a comprehensive planning process that involves public participation and

295 intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent
296 practicable, to protect water quality, and to satisfy the appropriate water quality requirements of
297 the CWA and regulations and the Virginia Stormwater Management Act and attendant
298 regulations, using management practices, control techniques, and system, design and engineering
299 methods, and such other provisions that are appropriate.

300 "Municipality" means a city, town, county, district, association, or other public body created
301 by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other
302 wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and
303 approved management agency under §208 of the CWA.

304 "National Pollutant Discharge Elimination System (NPDES)" means the national program for
305 issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and
306 imposing and enforcing pretreatment requirements under §§307, 402, 318, and 405 of the CWA.
307 The term includes an approved program.

308 "New discharger" means any building, structure, facility, or installation:

- 309 1. From which there is or may be a discharge of pollutants;
- 310 2. That did not commence the discharge of pollutants at a particular site prior to August 13,
311 1979;
- 312 3. Which is not a new source; and
- 313 4. Which has never received a finally effective VPDES or VSMP permit for discharges at
314 that site.

315 This definition includes an indirect discharger that commences discharging into surface
316 waters after August 13, 1979. It also includes any existing mobile point source (other than an
317 offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental
318 drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that
319 begins discharging at a site for which it does not have a permit; and any offshore or coastal
320 mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling
321 rig that commences the discharge of pollutants after August 13, 1979.

322 "New permit" means, for the purposes of this chapter, a permit issued by the permit-issuing
323 authority to a permit applicant that does not currently hold and has never held a permit of that
324 type, for that activity, at that location.

"New source," means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

1. After promulgation of standards of performance under §306 of the CWA that are applicable to such source; or

2. After proposal of standards of performance in accordance with §306 of the CWA that are applicable to such source, but only if the standards are promulgated in accordance with §306 of the CWA within 120 days of their proposal.

"Nonpoint source pollution" means pollution such as sediment, nitrogen and phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater runoff.

"Nonpoint source pollutant runoff load" or "pollutant discharge" means the average amount of a particular pollutant measured in pounds per year, delivered in a diffuse manner by stormwater runoff.

"Operator" means the owner or operator of any facility or activity subject to the VSMP permit regulation ~~under the VSMP program~~. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit conditions (i.e., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions). In the context of stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s), operator means the operator of the regulated MS4 system.

"Outfall" means, when used in reference to municipal separate storm sewers, a point source at the point where a municipal separate storm sewer discharges to surface waters and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other surface waters and are used to convey surface waters.

354 "Overburden" means any material of any nature, consolidated or unconsolidated, that overlies
355 a mineral deposit, excluding topsoil or similar naturally occurring surface materials that are not
356 disturbed by mining operations.

357 "Owner" means the Commonwealth or any of its political subdivisions including, but not
358 limited to, sanitation district commissions and authorities, and any public or private institution,
359 corporation, association, firm or company organized or existing under the laws of this or any
360 other state or country, or any officer or agency of the United States, or any person or group of
361 persons acting individually or as a group that owns, operates, charters, rents, or otherwise
362 exercises control over or is responsible for any actual or potential discharge of sewage, industrial
363 wastes, or other wastes to state waters, or any facility or operation that has the capability to alter
364 the physical, chemical, or biological properties of state waters in contravention of §62.1-44.5 of
365 the Code of Virginia, the Act and this chapter.

366 "Percent impervious" means the impervious area within the site divided by the area of the site
367 multiplied by 100.

368 "Permit" means an approval issued by the permit-issuing authority for the initiation of a land-
369 disturbing activity or for stormwater discharges from an MS4. Permit does not include any
370 permit that has not yet been the subject of final permit-issuing authority action, such as a draft
371 permit or a proposed permit.

372 "Permit-issuing authority" means the board, the department, or a locality that is delegated
373 authority by the board to issue, deny, revoke, terminate, or amend stormwater permits under the
374 provisions of the Act and this chapter.

375 "Permittee" means the person or locality to which the permit is issued, including any owner
376 or operator whose construction site is covered under a construction general permit.

377 "Person" means any individual, corporation, partnership, association, state, municipality,
378 commission, or political subdivision of a state, governmental body (including but not limited to a
379 federal, state, or local entity), any interstate body or any other legal entity.

380 "Planning area" means a designated portion of the parcel on which the land development
381 project is located. Planning areas shall be established by delineation on a master plan. Once
382 established, planning areas shall be applied consistently for all future projects.

383 "Point source" means any discernible, confined, and discrete conveyance including, but not
384 limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling
385 stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other
386 floating craft from which pollutants are or may be discharged. This term does not include return
387 flows from irrigated agriculture or agricultural stormwater runoff.

388 "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage,
389 garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials
390 (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC §2011 et
391 seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal,
392 and agricultural waste discharged into water. It does not mean:

393 1. Sewage from vessels; or

394 2. Water, gas, or other material that is injected into a well to facilitate production of oil or
395 gas, or water derived in association with oil and gas production and disposed of in a well if the
396 well used either to facilitate production or for disposal purposes is approved by the board and if
397 the board determines that the injection or disposal will not result in the degradation of ground or
398 surface water resources.

399 "Pollution" means such alteration of the physical, chemical or biological properties of any
400 state waters as will or is likely to create a nuisance or render such waters (a) harmful or
401 detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or
402 aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources
403 of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or
404 other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological
405 property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to
406 state waters by any owner which by itself is not sufficient to cause pollution, but which, in
407 combination with such alteration of or discharge or deposit to state waters by other owners, is
408 sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state
409 waters; and (iii) contributing to the contravention of standards of water quality duly established
410 by the State Water Control Board, are "pollution" for the terms and purposes of this chapter.

411 "Post-development" refers to conditions that reasonably may be expected or anticipated to
412 exist after completion of the land development activity on a specific site or tract of land.

413 "Pre-development" refers to the conditions that exist at the time that plans for the land
414 development of a tract of land are approved by the plan approval authority. Where phased
415 development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing
416 conditions at the time prior to the first item being approved or permitted shall establish pre-
417 development conditions.

418 "Privately owned treatment works (PVOTW)" means any device or system that is (i) used to
419 treat wastes from any facility whose operator is not the operator of the treatment works and (ii)
420 not a POTW.

421 "Proposed permit" means a VSMP permit prepared after the close of the public comment
422 period (and, when applicable, any public hearing and administrative appeals) that is sent to EPA
423 for review before final issuance. A proposed permit is not a draft permit.

424 "Publicly owned treatment works (POTW)" means a treatment works as defined by §212 of
425 the CWA that is owned by a state or municipality (as defined by §502(4) of the CWA). This
426 definition includes any devices and systems used in the storage, treatment, recycling, and
427 reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers,
428 pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The
429 term also means the municipality as defined in §502(4) of the CWA, that has jurisdiction over
430 the indirect discharges to and the discharges from such a treatment works.

431 "Qualified personnel" means a licensed professional engineer, responsible land disturber, or
432 other knowledgeable person that holds a certificate of competency from the board in the area of
433 project inspection or combined administrator.

434 "Recommencing discharger" means a source that recommences discharge after terminating
435 operations.

436 "Regional administrator" means the Regional Administrator of Region III of the
437 Environmental Protection Agency or the authorized representative of the regional administrator.

438 "Regional (watershed-wide) stormwater management facility" or "regional facility" means a
439 facility or series of facilities designed to control stormwater runoff from a specific watershed,
440 although only portions of the watershed may experience land development.

441 "Regional (watershed-wide) stormwater management plan" or "regional plan" means a
442 document containing material describing how runoff from open space, existing development and

future planned development areas within a watershed will be controlled by coordinated design and implementation of regional stormwater management facilities.

"Revoked permit" means, for the purposes of this chapter, an existing permit that is terminated by the board before its expiration.

"Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.

"Runoff" or "stormwater runoff" means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

"Sand filter" means a contained bed of sand that acts to filter the first flush of runoff. The runoff is then collected beneath the sand bed and conveyed to an adequate discharge point or infiltrated into the in-situ soils.

"Schedule of compliance" means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the Act, the CWA and regulations.

"Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Shallow marsh" means a zone within a stormwater extended detention basin that exists from the surface of the normal pool to a depth of six to 18 inches, and has a large surface area and, therefore, requires a reliable source of baseflow, groundwater supply, or a sizeable drainage area, to maintain the desired water surface elevations to support emergent vegetation.

"Significant materials" means, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under §101(14) of CERCLA (42 USC §9601(14)); any chemical the facility is required to report pursuant to §313 of Title III of SARA (42 USC §11023); fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

"Single jurisdiction" means, for the purposes of this chapter, a single county or city. The term county includes incorporated towns which are part of the county.

"Site" means the land or water area where any facility or activity is physically located or conducted, a parcel of land being developed, or a designated planning area in which the land development project is located.

"Small construction activity" means:

1. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre, or equal to or greater than 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act, and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The board may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on a "total maximum daily load" (TMDL) approved or established by EPA that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the board that the construction activity will take place, and stormwater discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis.

2. Any other construction activity designated by the either the board or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

504 "Small municipal separate storm sewer system" or "small MS4" means all separate storm
505 sewers that are (i) owned or operated by the United States, a state, city, town, borough, county,
506 parish, district, association, or other public body (created by or pursuant to state law) having
507 jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including
508 special districts under state law such as a sewer district, flood control district or drainage district,
509 or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated
510 and approved management agency under §208 of the CWA that discharges to surface waters and
511 (ii) not defined as "large" or "medium" municipal separate storm sewer systems or designated
512 under 4VAC50-60-380 A 1. This term includes systems similar to separate storm sewer systems
513 in municipalities, such as systems at military bases, large hospital or prison complexes, and
514 highway and other thoroughfares. The term does not include separate storm sewers in very
515 discrete areas, such as individual buildings.

516 "Source" means any building, structure, facility, or installation from which there is or may be
517 a discharge of pollutants.

518 "State" means the Commonwealth of Virginia.

519 "State/EPA agreement" means an agreement between the regional administrator and the state
520 that coordinates EPA and state activities, responsibilities and programs including those under the
521 CWA and the Act.

522 "State project" means any land development project that is undertaken by any state agency,
523 board, commission, authority or any branch of state government, including state-supported
524 institutions of higher learning.

525 "State Water Control Law" means Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1 of the Code
526 of Virginia.

527 "State waters" means all water, on the surface and under the ground, wholly or partially
528 within or bordering the Commonwealth or within its jurisdiction, including wetlands.

529 "Stormwater" means precipitation that is discharged across the land surface or through
530 conveyances to one or more waterways and that may include stormwater runoff, snow melt
531 runoff, and surface runoff and drainage.

532 "Stormwater detention basin" or "detention basin" means a stormwater management facility
533 that temporarily impounds runoff and discharges it through a hydraulic outlet structure to a

downstream conveyance system. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and are, therefore, not considered in the facility's design. Since a detention facility impounds runoff only temporarily, it is normally dry during nonrainfall periods.

"Stormwater discharge associated with construction activity" means a discharge of pollutants in stormwater runoff from areas where land-disturbing activities (e.g., clearing, grading, or excavation); construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling); or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

"Stormwater discharge associated with large construction activity" means the discharge of stormwater from large construction activities.

"Stormwater discharge associated with small construction activity" means the discharge of stormwater from small construction activities.

"Stormwater extended detention basin" or "extended detention basin" means a stormwater management facility that temporarily impounds runoff and discharges it through a hydraulic outlet structure over a specified period of time to a downstream conveyance system for the purpose of water quality enhancement or stream channel erosion control. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and, therefore, are not considered in the facility's design. Since an extended detention basin impounds runoff only temporarily, it is normally dry during nonrainfall periods.

"Stormwater extended detention basin-enhanced" or "extended detention basin-enhanced" means an extended detention basin modified to increase pollutant removal by providing a shallow marsh in the lower stage of the basin.

"Stormwater management facility" means a device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

"Stormwater management plan" means a document(s) containing material for describing how existing runoff characteristics will be maintained by a land-disturbing activity and methods for complying with the requirements of the local program or this chapter.

"Stormwater Management Program" means a program established by a locality that is consistent with the requirements of the Virginia Stormwater Management Act, this chapter and associated guidance documents.

"Stormwater Pollution Prevention Plan" (SWPPP) or "plan SWPPP" means a document that is prepared in accordance with good engineering practices and that identifies potential sources of ~~pollution~~ pollutant that may reasonably be expected to affect the quality of stormwater discharges from the construction site or its associated land-disturbing activities. In addition the document shall describe and ensure the implementation of ~~best management practices~~ control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an erosion and sediment control plan, a post-construction stormwater management plan, a spill prevention control and countermeasure (SPCC) plan, and other practices that will be used to reduce or eliminate pollutants in stormwater discharges from land-disturbing activities and to assure compliance with the terms and conditions of this chapter. All plans incorporated by reference into the SWPPP shall be enforceable under the permit issued or general permit coverage authorized.

"Stormwater retention basin" or "retention basin" means a stormwater management facility that includes a permanent impoundment, or normal pool of water, for the purpose of enhancing water quality and, therefore, is normally wet, even during nonrainfall periods. Storm runoff inflows may be temporarily stored above this permanent impoundment for the purpose of reducing flooding, or stream channel erosion.

"Stormwater retention basin I" or "retention basin I" means a retention basin with the volume of the permanent pool equal to three times the water quality volume.

"Stormwater retention basin II" or "retention basin II" means a retention basin with the volume of the permanent pool equal to four times the water quality volume.

"Stormwater retention basin III" or "retention basin III" means a retention basin with the volume of the permanent pool equal to four times the water quality volume with the addition of an aquatic bench.

592 "Subdivision" means the same as defined in §15.2-2201 of the Code of Virginia.

593 "Surface waters" means:

594 1. All waters that are currently used, were used in the past, or may be susceptible to use in
595 interstate or foreign commerce, including all waters that are subject to the ebb and flow of the
596 tide;

597 2. All interstate waters, including interstate wetlands;

598 3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams),
599 mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural
600 ponds the use, degradation, or destruction of which would affect or could affect interstate or
601 foreign commerce including any such waters:

602 a. That are or could be used by interstate or foreign travelers for recreational or other
603 purposes;

604 b. From which fish or shellfish are or could be taken and sold in interstate or foreign
605 commerce; or

606 c. That are used or could be used for industrial purposes by industries in interstate commerce.

607 4. All impoundments of waters otherwise defined as surface waters under this definition;

608 5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;

609 6. The territorial sea; and

610 7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in
611 subdivisions 1 through 6 of this definition.

612 Waste treatment systems, including treatment ponds or lagoons designed to meet the
613 requirements of the CWA and the law, are not surface waters. Surface waters do not include
614 prior converted cropland. Notwithstanding the determination of an area's status as prior
615 converted cropland by any other agency, for the purposes of the Clean Water Act, the final
616 authority regarding the Clean Water Act jurisdiction remains with the EPA.

617 "Total dissolved solids" means the total dissolved (filterable) solids as determined by use of
618 the method specified in 40 CFR Part 136 (2000).

619 "Total maximum daily load" or "TMDL" means the sum of the individual wasteload
620 allocations for point sources, load allocations (LAs) for nonpoint sources, natural background

loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

"Toxic pollutant" means any pollutant listed as toxic under §307(a)(1) of the CWA or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing §405(d) of the CWA.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the operator. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"Variance" means any mechanism or provision under §301 or §316 of the CWA or under 40 CFR Part 125 (2000), or in the applicable effluent limitations guidelines that allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of the CWA. This includes provisions that allow the establishment of alternative limitations based on fundamentally different factors or on §301(c), §301(g), §301(h), §301(i), or §316(a) of the CWA.

"Vegetated filter strip" means a densely vegetated section of land engineered to accept runoff as overland sheet flow from upstream development. It shall adopt any natural vegetated form, from grassy meadow to small forest. The vegetative cover facilitates pollutant removal through filtration, sediment deposition, infiltration and absorption, and is dedicated for that purpose.

"Virginia Pollutant Discharge Elimination System (VPDES) permit" or "VPDES permit" means a document issued by the State Water Control Board pursuant to the State Water Control Law authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters and the use or disposal of sewage sludge.

"Virginia Stormwater Management Act" or "Act" means Article 1.1 (§10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

"Virginia Stormwater BMP Clearinghouse website" means a website that contains detailed design standards and specifications for BMPs that may be used in Virginia to comply with requirements of the Virginia Stormwater Management Act and associated regulations and that is

650 jointly created by the department and the Virginia Water Resources Research Center subject to
651 advice from a permanent stakeholder advisory committee.

652 "Virginia Stormwater Management Program (VSMP)" means the Virginia program for
653 issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and
654 imposing and enforcing requirements pursuant to the federal Clean Water Act, the Virginia
655 Stormwater Management Act, this chapter, and associated guidance documents.

656 "Virginia Stormwater Management Program (VSMP) permit" means a document issued by
657 the permit-issuing authority pursuant to the Virginia Stormwater Management Act and this
658 chapter authorizing, under prescribed conditions, the potential or actual discharge of pollutants
659 from a point source to surface waters. Under the approved state program, a VSMP permit is
660 equivalent to a NPDES permit.

661 "VSMP application" or "application" means the standard form or forms, including any
662 additions, revisions or modifications to the forms, approved by the administrator and the board
663 for applying for a VSMP permit.

664 "Wasteload allocation" or "wasteload" or "WLA" means the portion of a receiving surface
665 water's loading or assimilative capacity allocated to one of its existing or future point sources of
666 pollution. WLAs are a type of water quality-based effluent limitation.

667 "Water quality standards" or "WQS" means provisions of state or federal law which consist
668 of a designated use or uses for the waters of the Commonwealth and water quality criteria for
669 such waters based on such uses. Water quality standards are to protect the public health or
670 welfare, enhance the quality of water, and serve the purposes of the State Water Control Law
671 (§62.1-44.2 et seq. of the Code of Virginia), the Virginia Stormwater Management Act (§10.1-
672 603.1 et seq. of the Code of Virginia), and the federal Clean Water Act (33 USC §1251 et seq.).

673 "Water quality volume" means the volume equal to the first 1/2 inch of runoff multiplied by
674 the impervious surface of the land development project.

675 "Watershed" means a defined land area drained by a river or stream or system of connecting
676 rivers or streams such that all surface water within the area flows through a single outlet.

677 "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a
678 frequency and duration sufficient to support, and that under normal circumstances do support, a

prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Whole effluent toxicity" means the aggregate toxic effect of an effluent measured directly by a toxicity test.

4VAC50-60-1100. Definitions.

The words and terms used in this part shall have the meanings defined in the Act and this chapter unless the context clearly indicates otherwise, except that for the purposes of this part:

"Commencement of construction" means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities (e.g., stockpiling of fill material).

"Final stabilization" means that one of the following situations has occurred:

1. All soil disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed, without large bare areas), mature enough to survive, and will inhibit erosion.
2. For individual lots in residential construction, final stabilization can occur by either:
 - a. The homebuilder completing final stabilization as specified in subdivision 1 of this definition; or
 - b. The homebuilder establishing temporary stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization.
3. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization criteria specified in subdivision 1 or 2 of this definition.

708

709 **4VAC50-60-1110. Purpose.**

710 This general permit regulation ~~governs~~ authorizes stormwater discharges from construction
711 activities. For the purposes of this part, these discharges are defined as stormwater discharges
712 associated with large construction activity, and stormwater discharges associated with small
713 construction activity. Stormwater discharges associated with other types of industrial activity
714 shall not have coverage under this general permit. This general permit covers only discharges
715 through a point source to ~~a surface water~~ state waters or through a municipal or nonmunicipal
716 separate storm sewer system to ~~surface~~ state waters. Stormwater discharges associated with
717 industrial activity that originate from the site after construction activities have been completed
718 and the site has undergone final stabilization are not authorized by this permit. The goal of this
719 permit is to reduce or eliminate stormwater pollutants from construction activity by requiring
720 that the operator plan and implement appropriate control measures. Implementation of the
721 strategies and control measures consistent with the provisions of this permit constitutes
722 compliance with the assumptions of an approved TMDL, protects water quality in the absence of
723 a TMDL wasteload allocation, ensures compliance by the operator with water quality standards,
724 and satisfies the appropriate water quality requirements of the Clean Water Act and regulations.

725

726 **4VAC50-60-1120. Effective date of the permit.**

727 This general permit became effective on July 1, ~~2004~~ 2009. The general permit will expire on
728 June 30, ~~2009~~ 2014.

729

730 **4VAC50-60-1130. Authorization to discharge.**

731 A. Any operator governed by this general permit is authorized by this to discharge to ~~surface~~
732 state waters of the Commonwealth of Virginia upon issuance of coverage under the general
733 permit by the permit issuing authority provided that the operator ~~files~~ has filed a complete and
734 accurate registration statement in accordance with 4VAC50-60-1140, submitted any fees
735 required by 4VAC50-60-700 et seq. (Part XIII), ~~complies~~ complied with the requirements of
736 4VAC50-60-1150, complied with the requirements of 4VAC50-60-40 et seq. (Part II), and
737 provided that:

1. The operator shall not have been required to obtain an individual permit according to 4VAC50-60-410 B;

2. The operator shall not be authorized by this general permit to discharge to state waters specifically named in other State Water Control Board regulations or policies that prohibit such discharges;

3. Prior to commencing construction, the operator shall obtain approval of an erosion and sediment control plan from the locality in which the construction activity is to occur or from another appropriate plan approving authority authorized under the Erosion and Sediment Control Regulations, 4VAC50-30, unless the operator receives an "agreement in lieu of a plan" from the locality, or is exempt from the requirement to submit an erosion and sediment control plan by 4VAC50-30 §10.1-560;

~~4. Stormwater discharges which the permit issuing authority determines cause, may reasonably be expected to cause, or contribute to a violation of water quality standards (9VAC25-260) are not covered by this permit;~~

~~54.~~ The stormwater discharge authorized by this permit may be combined with other sources of stormwater that are not required to be covered under a VSMP permit, so long as the combined discharge is in compliance with this permit. Any discharge authorized by a different VSMP or a VPDES permit may be commingled with discharges authorized by this permit; and

~~65.~~ Discharges to waters for which a "total maximum daily load" (TMDL) wasteload allocation ~~for sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation) has been established by the State Water Control Board and approved by EPA are not eligible for coverage under this permit unless the stormwater pollution prevention plan (SWPPP) developed by the operator incorporates measures and controls that are consistent with the assumptions and requirements of such TMDL. To be eligible for coverage under this general permit, the SWPPP must incorporate any conditions applicable to discharges from the construction site that are necessary for consistency with the assumptions and requirements of the TMDL. If a specific wasteload allocation has been established that would apply to discharges from the construction site, the operator must incorporate that allocation into the SWPPP and implement necessary~~

~~steps to meet that allocation~~ shall be addressed in accordance with 4VAC50-60-1170,
Section II, D7.

B. This permit may also be used to authorize stormwater discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) located on-site or off-site provided that:

1. The support activity is directly related to a construction site that is required to have VSMP permit coverage for discharges of stormwater associated with construction activity;

2. The support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and

3. Appropriate ~~controls and pollution prevention control~~ measures are identified in a stormwater pollution prevention plan covering the discharges from the support activity areas.

C. Support activities located off-site are not required to be covered under this general permit. Discharges of stormwater from off-site support activities may be authorized under another VSMP or a VPDES permit. Where stormwater discharges from off-site support activities are not authorized under this general permit, the land area of the off-site support activity need not be included in determining the total land disturbance acreage of the construction activity seeking general permit coverage.

D. Receipt of this general permit does not relieve any operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

E. The ~~permit issuing authority may allow exceptions to technical criteria contained in the permit in accordance with 4VAC50-60-140 board may waive the otherwise applicable requirements in this general permit regulation for a stormwater discharge from small construction activity where stormwater controls are not needed based on a "total maximum daily load" (TMDL) established by the board and approved by EPA that addresses the pollutants of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutants of concern or that determines that such allocations are not needed to protect water quality based on consideration of~~

existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this section, the pollutants of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. In order to obtain this waiver, prior to the commencement of construction the operator must certify to the board that the construction activity will take place, and stormwater discharges will occur, within the drainage area addressed by a TMDL, or within the drainage area addressed by an equivalent analysis.

4VAC50-60-1140. Qualifying state, tribal and local programs.

Qualifying state, tribal, or local erosion and sediment control program requirements may be incorporated by reference into the Stormwater Pollution Prevention Plan (SWPPP) required by 4VAC50-60-1170 of this permit. Where a qualifying state, tribal, or local program does not include one or more of the elements in this section, then the permittee operator must include those elements as part of the SWPPP required by 4VAC50-60-1170 of this permit. A qualifying state, tribal, or local erosion and sediment control program is one that is approved by the board and includes:

1. Requirements for construction site operators to implement appropriate erosion and sediment control best management practices measures;
2. Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality; and
3. Requirements for construction site operators to develop and implement an a SWPPP in accordance with 4VAC50-60-1170, Section II. ~~(An SWPPP includes site descriptions, descriptions of appropriate control measures, copies of approved state, tribal or local requirements, maintenance procedures, inspection procedures, and identification of nonstormwater discharges); and~~
4. ~~Requirements to submit a site plan for review that incorporates consideration of potential water quality impacts.~~

4VAC50-60-1150. Permit application (registration statement).

A. Deadlines for submitting registration statement.

1. Except as provided in subdivision 3 of this subsection, operators must submit a complete and accurate registration statement in accordance with the requirements of this section prior to the issuance of coverage under the general permit that authorizes the commencement of construction land disturbing activities (i.e., the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities).

2. For stormwater discharges from construction projects land disturbing activities where the operator changes, ~~including instances where an operator is added after a registration statement has been submitted,~~ the new operator must submit a complete ~~and accurate registration statement transfer form~~ prior to assuming operational control over site specifications or commencing work on-site.

3. In order to continue permit coverage, operators of ongoing construction land disturbing activity projects as of July 1, 2004 2009, that received authorization to discharge for those projects under the construction stormwater general permit issued in 1999 2004 must:

- a. Submit a complete and accurate registration statement by July 1, 2004 2009; and
- b. Update their stormwater pollution prevention plan to comply with the requirements of this general permit within 30 days after the date of coverage under this general permit.

4. Effective date of permit coverage. The operator of a construction activity is authorized to discharge stormwater ~~from those construction activities~~ under the terms and conditions of this permit ~~immediately upon submission of a complete and accurate registration statement to~~ only upon issuance of coverage under the general permit by the permit-issuing authority, ~~but in no event earlier than the effective date of this permit, except as noted in subdivision 3 of this subsection. For the purposes of this regulation, a registration statement that is mailed is considered to be submitted once it is postmarked. Operators are not authorized to discharge if the registration statement is incomplete or incorrect, or if the discharge(s) was not eligible for coverage under this permit.~~

5. Late notifications. Operators are not prohibited from submitting registration statements after initiating clearing, grading, excavation activities, or other construction land disturbing activities. When a late registration statement is submitted, authorization for discharges ~~occurs no earlier than the submission date of the registration statement may not occur until coverage under the general permit is issued~~. The permit-issuing authority reserves the right to take enforcement action for any unpermitted discharges or permit noncompliance that occurs between the commencement of construction and discharge authorization.

B. Registration statement. The operator shall submit a registration statement that shall contain the following information:

1. Name, mailing address and telephone number of the construction land disturbing activity operator. No more than one operator may receive coverage under each registration statement. (NOTE: The permit will be issued to this operator, and the certification in subdivision 13 of this subsection must be signed by the appropriate person associated with this operator) ;
2. Name and location of the construction land disturbing activity, including town, city, or county, and all off-site support activities to be covered under the permit. If a street address is unavailable, provide latitude and longitude;
3. Status of the activity: federal, state, public, or private;
4. Nature of the construction project land disturbing activity (e.g., commercial, industrial, residential, agricultural, oil and gas, etc.);
5. Name of the receiving water(s);
6. If the discharge is through a municipal separate storm sewer system (MS4), the name of the municipal operator of the storm sewer;
7. Estimated project start date and completion date;
8. Total land area of development and estimated area to be disturbed by construction land disturbing activity (to the nearest quarter one-tenth of an acre);
9. Whether the area to be disturbed by the construction land disturbing activity is part of a larger common plan of development or sale;

10. ~~A topographic map or other map that clearly shows the location of the construction activity, the area to be disturbed (including off site support activities), and the receiving stream or streams for the stormwater discharges;~~

~~NOTE:~~ A stormwater pollution prevention plan (SWPPP) must be prepared in accordance with the requirements of the VSMP General Permit for Stormwater Discharges from Construction Activities prior to submitting this registration statement. By signing this registration statement you are certifying that the SWPPP has been prepared;

~~11. The location of where the SWPPP may be viewed, and the name and phone number of a contact person (NOTE: The contact person should be a person knowledgeable in the principles and practice of erosion and sediment controls, that is a licensed professional engineer, responsible land disturber (RLD), or other knowledgeable person that (i) holds a certificate of competence from the board in the area of project inspection; or (ii) is enrolled in the board's training program for project inspection or combined administrator and successfully completes such program within one year of enrollment); and~~

~~12. A list of the permanent BMPs (both structural and nonstructural) that will be installed at the construction activity site. For each BMP that will be installed, include the following information:~~

~~a. Type of permanent BMP to be installed;~~

~~b. Geographic location (county—state Hydrologic Unit Code);~~

~~c. Waterbody the BMP will discharge into;~~

~~d. Number of acres that will be treated (to the nearest one tenth acre).;~~

~~13~~11. The following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly ~~gather~~ gathered and ~~evaluate~~ evaluated the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

C. The registration statement shall be signed in accordance with 4VAC50-60-1170, Section III K.

D. Where to submit. The registration statement shall be submitted to the permit-issuing authority.

4VAC50-60-1160. Termination of permit coverage.

A. Requirements. The operator ~~of the construction activity~~ may only submit a notice of termination after one or more of the following conditions have been met:

1. Final Necessary post-construction control measures included in the SWPPP for the site are in place and functioning and final stabilization has been achieved on all portions of the site for which the operator is responsible;
2. Another operator has assumed control over and obtained VSMP permit coverage for all areas of the site that have not been finally stabilized;
3. Coverage under an individual or alternative VPDES or VSMP permit has been obtained; or
4. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

The notice of termination must be submitted within 30 days of one of the above conditions being met. Authorization to discharge terminates seven days after at midnight on the date that the notice of termination is submitted. ~~For the purposes of this regulation, a notice of termination that is mailed is considered to be submitted once it is postmarked.~~

B. Notice of termination. The notice of termination shall contain the following information:

1. Name, mailing address and telephone number of the construction activity operator.
2. Name and location of the construction activity. If a street address is unavailable, provide latitude and longitude.
3. The VSMP stormwater general permit number.
4. The basis for submission of the notice of termination, including:
 - a. Final stabilization has been achieved on all portions of the site for which the operator is responsible;

- b. Another operator has assumed control over all areas of the site that have not been finally stabilized;
- c. Coverage under an alternative VPDES or VSMP permit has been obtained; or
- d. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

5. A list of the permanent control measures (both structural and nonstructural) that were installed at the land disturbing activity site. For each control measure that was installed, include the following information:

- a. Type of permanent control measure installed;
- b. Geographic location (county or city and Hydrologic Unit Code);
- c. Waterbody the control measure discharges into;
- d. Number of acres treated (to the nearest one-tenth of an acre).

56. The following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly ~~gather~~ gathered and ~~evaluate~~ evaluated the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

C. The notice of termination shall be signed in accordance with 4VAC50-60-1170, Section III K.

D. Where to submit. The notice of termination shall be submitted to the permit-issuing authority.

4VAC50-60-1170. General permit.

Any operator whose registration statement is accepted by the permit-issuing authority will receive the following permit and shall comply with the requirements in it and be subject to all requirements of the Virginia Stormwater Management Act (Chapter 6, Article 1.1 (§10.1-603.1

et seq.) of Title 10.1 of the Code of Virginia) and the Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60). No more than one operator may receive coverage under each registration statement.

General Permit No.: DCR01 VAR10

Effective Date: July 1, 2004 2009

Expiration Date: June 30, 2009 2014

GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA STORMWATER MANAGEMENT PROGRAM AND THE VIRGINIA STORMWATER MANAGEMENT ACT

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the Virginia Stormwater Management Act and regulations adopted pursuant to that, operators of construction activities (those sites or common plans of development or sale that will result in the disturbance of one or more acres of total land area) with stormwater discharges from these construction activities are authorized to discharge to surface state waters, including discharges to a regulated MS4 system, within the boundaries of the Commonwealth of Virginia, except those specifically named in State Water Control Board and Virginia Soil and Water Conservation Board regulations and policies or permit issuing authority policies and ordinances which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Section I—Discharge Authorization and Special Conditions, Section II—Stormwater Pollution Prevention Plan, and Section III—Conditions Applicable To All VSMP Permits as set forth herein.

SECTION I

DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

A. Coverage under this permit.

1. During the period beginning with the date of coverage under this general permit and lasting until the permit's expiration date, the permittee operator is authorized to discharge stormwater from construction activities.

2. This permit ~~may~~ also ~~authorizes~~ authorize stormwater discharges from ~~off-site~~ support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) located on-site or off-site provided that:

a. The support activity is directly related to ~~a the~~ construction site that is required to have VSMP permit coverage for discharges of stormwater associated with construction activity;

b. The support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and

c. Appropriate ~~controls and pollution prevention control~~ measures ~~for the discharges from the support activity areas~~ are identified in ~~the a~~ stormwater pollution prevention plan required for the construction activity under Section II D of this permit covering the discharges from the support activity areas.

3. There shall be no discharge of floating solids or visible foam ~~in other than trace amounts~~ which contravenes established standards or interferes directly or indirectly with designated uses of surface waters.

B. Limitation on coverage.

1. Post-construction discharges. This permit does not authorize stormwater discharges that originate from the site after construction activities have been completed and the site, including any temporary support activity site, has undergone final stabilization. Post-construction industrial stormwater discharges may need to be covered by a separate VPDES permit.

2. Discharges mixed with nonstormwater. This permit does not authorize discharges that are mixed with sources of nonstormwater, other than those discharges that are identified in Section I D 2 (Exceptions to prohibition of nonstormwater discharges) and are in compliance with Section II D 5 (Nonstormwater discharge management).

3. Discharges covered by another permit. This permit does not authorize stormwater discharges associated with construction activity that have been covered under an

individual permit or required to obtain coverage under an alternative general permit in accordance with Part Section III X.

4. TMDL limitation. Discharges to waters for which a wasteload allocation (WLA) for a pollutant has been established in a "total maximum daily load" (TMDL) by the Commonwealth and approved by the EPA that would apply to stormwater discharges from a land disturbing construction activity allocation for sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation) has been established by the State Water Control Board and approved by EPA are not eligible for coverage under this permit unless the stormwater pollution prevention plan (SWPPP) developed by the operator is incorporates measures and controls that are consistent with the assumptions and requirements of such TMDL Section II D 7. To be eligible for coverage under this general permit, the SWPPP must incorporate any conditions applicable to discharges from the construction site that are necessary for consistency with the assumptions and requirements of the TMDL. If a specific wasteload allocation has been established that would apply to discharges from the construction site, the operator must incorporate that allocation into the SWPPP and implement necessary steps to meet that allocation.

C. Commingled discharges. Any discharge authorized by a different VSMP or VPDES permit may be commingled with discharges authorized by this permit.

D. Prohibition of nonstormwater discharges.

1. Except as provided in Sections I A 2, I C and I D 2, all discharges covered by this permit shall be composed entirely of stormwater associated with construction activity.

2. The following nonstormwater discharges from active construction sites are authorized by this permit provided the nonstormwater component of the discharge is in compliance with Section II D 5 (Nonstormwater discharges):

- a. Discharges from fire fighting activities;
- b. Fire hydrant flushings;
- c. Waters used to wash vehicles where detergents are not used;
- d. Water used to control dust;
- e. Potable water sources, including uncontaminated waterline flushings;

- 1062 ~~f. Water used for hydrostatic testing of new pipeline construction;~~
1063 ~~g. f.~~ Routine external building wash down which does not use detergents;
1064 ~~h. g.~~ Pavement washwaters where spills or leaks of toxic or hazardous materials have
1065 not occurred (unless all spilled material has been removed) and where detergents are
1066 not used;
1067 ~~i. h.~~ Uncontaminated air conditioning or compressor condensate;
1068 ~~j. i.~~ Uncontaminated ground water or spring water;
1069 ~~k. j.~~ Foundation or footing drains where flows are not contaminated with process
1070 materials such as solvents;
1071 ~~l. k.~~ Uncontaminated excavation dewatering, and
1072 ~~m. l.~~ Landscape irrigation.

1073 E. Releases of hazardous substances or oil **in excess of reportable quantities**. The discharge
1074 of hazardous substances or oil in the stormwater discharges from the construction site shall be
1075 prevented **or minimized** in accordance with the stormwater pollution prevention plan for the site.
1076 This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 110
1077 (2002), 40 CFR Part 117 (2002) and 40 CFR Part 302 (2002) or §62.1-44.34:19 of the Code of
1078 Virginia.

1079 Where a release containing a hazardous substance or oil in an amount equal to or in excess of
1080 a reportable quantity established under either 40 CFR Part 110 (2002), 40 CFR Part 117 (2002),
1081 **or 40 CFR Part 302 (2002) or §62.1-44.34:19 of the Code of Virginia** occurs during a 24-hour
1082 period:

- 1083 1. The ~~permittee operator~~ is required to notify the Department of Environmental Quality
1084 and the permit-issuing authority in accordance with the requirements of Section III G as
1085 soon as he has knowledge of the discharge;
- 1086 2. Where a release enters a municipal separate storm sewer system (MS4), the ~~permittee~~
1087 ~~operator~~ shall also notify the ~~owner operator~~ of the MS4 ~~and the Department of~~
1088 ~~Conservation and Recreation~~; and
- 1089 3. The stormwater pollution prevention plan required under Section II D of this permit
1090 must be reviewed by the operator to identify measures to prevent the reoccurrence of

such releases and to respond to such releases, and the plan must be modified where appropriate within seven calendar days of knowledge of a release.

F. Spills. This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

G. Termination of permit coverage. Coverage under this permit may be terminated in accordance with 4VAC50-60-1160.

1. The operator of the construction activity may only submit a notice of termination after one or more of the following conditions have been met:

a. Final stabilization has been achieved on all portions of the site for which the operator is responsible;

b. Another operator has assumed control over all areas of the site that have not been finally stabilized;

c. Coverage under an alternative VPDES or VSMP permit has been obtained; or

d. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner;

2. The notice of termination must be submitted within 30 days of one of the conditions in Section I G 1 being met. Authorization to discharge terminates seven days after the notice of termination is submitted.

3. The notice of termination shall be signed in accordance with Section III K of this permit.

H. Water quality protection.

1. The permittee operator must select, install, implement and maintain best management practices (BMPs) control measures at the construction site that minimize pollutants in the discharge as necessary to meet applicable water quality standards. If there is evidence indicating that the stormwater discharges authorized by this permit are causing, have the reasonable potential to cause, or are contributing to an excursion above an applicable water quality standard, or are causing downstream pollution (as defined in this part), the permit issuing authority may take appropriate enforcement action, may require the permittee to include and implement appropriate controls in the SWPPP to correct the problem, and/or may require the permittee to obtain an individual permit in accordance

~~with 4VAC50-60-410 B 3.~~ In general, except in situations explained in subdivision 2 below, the stormwater ~~controls~~ control measures developed, implemented, and updated consistent with Section II ~~are shall be~~ considered as stringent as necessary to ensure that the operator's discharges do not cause or contribute to an excursion above any applicable water quality standard.

2. At any time after authorization, the permit issuing authority may determine that the operator's stormwater discharges may cause, have reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. If such a determination is made, the permit issuing authority will require the operator to:

a. Develop a supplemental BMP control measure action plan describing modifications to the operator's stormwater ~~controls~~ control measures in accordance with Section II C to address adequately the identified water quality concerns;

b. Submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or

c. Cease discharges of pollutants from construction activity and submit an individual permit application according to 4VAC50-60-410 B 3.

All written responses required under this part must include a signed certification consistent with Section III K.

SECTION II

STORMWATER POLLUTION PREVENTION PLAN

A. Stormwater Pollution Prevention Plan Framework.

1. A stormwater pollution prevention plan (SWPPP) shall be developed prior to submission of a registration statement and implemented for the construction activity covered by this permit. SWPPPs shall be prepared in accordance with good engineering practices.

2. The SWPPP shall:

1149 a. identify Identify potential sources of pollution pollutants which may reasonably
1150 be expected to affect the quality of stormwater discharges from the construction
1151 site. In addition, the SWPPP shall
1152 b. describe Describe and ensure the implementation of practices control measures
1153 which will be used to reduce pollutants in stormwater discharges from the
1154 construction site, and to
1155 c. assure compliance Comply with the terms and conditions of this permit.

1156 3. The SWPPP requirements of this general permit may be fulfilled by incorporating by
1157 reference other state, tribal or local plans such as (i) an erosion and sediment control
1158 (ESC) plan or, (ii) an agreement in lieu of a plan as defined in 4VAC50-30-10, (iii) a
1159 stormwater management plan, (iv) a spill prevention control and countermeasure (SPCC)
1160 plan developed for the site under §311 of the federal Clean Water Act or (v) best
1161 management practices (BMP) programs otherwise required for the facility provided that
1162 the incorporated plan meets or exceeds the SWPPP requirements of Section II D. If an
1163 erosion and sediment control plan for the construction land-disturbing activity is being
1164 incorporated by reference, the referenced plan must be approved by the locality in which
1165 the construction activity is to occur or by another appropriate plan approving authority
1166 authorized under the Virginia Erosion and Sediment Control Regulations (4VAC50-30)
1167 prior to the commencement of construction land disturbance.

1168 4. All plans incorporated by reference into the SWPPP become enforceable under this
1169 permit. If a plan incorporated by reference does not contain all of the required elements
1170 of the SWPPP of Section II D, the permittee operator must develop the missing elements
1171 and include them in the required SWPPP.

1172 5. Once a definable area has been finally stabilized, the operator may mark this on the
1173 SWPPP and no further SWPPP or inspection requirements—inspections apply to that
1174 portion of the site—shall be conducted in accordance with Section II D 4—(e.g., earth-
1175 disturbing activities around one of three buildings in a complex are done and the area is
1176 finally stabilized; one mile of a roadway or pipeline project is done and finally stabilized,
1177 etc.).

1178 6. The operator must implement the SWPPP as written and updated in accordance with
1179 Section II C from commencement of construction activity until final stabilization is
1180 complete-permit coverage is terminated.

1181 A. ~~Deadlines for SWPPP preparation and compliance.~~

1182 ~~1. The SWPPP shall be prepared prior to submittal of the registration statement and~~
1183 ~~provide for compliance with the terms and schedule of the plan beginning with the~~
1184 ~~initiation of construction activities.~~

1185 ~~2. For ongoing construction activity involving a change of operator, the new operator~~
1186 ~~shall accept and maintain the existing SWPPP, or prepare and implement a new SWPPP~~
1187 ~~prior to taking over operations at the site.~~

1188 B. Signature, plan SWPPP review and making plans SWPPPs available.

1189 1. The SWPPP shall be signed in accordance with Section III K.

1190 2. The SWPPP shall be retained, along with a copy of this permit, registration statement,
1191 and acknowledgement letter from the permit issuing authority, at the construction site or
1192 other location easily accessible during normal business hours from the date of
1193 commencement of construction activity to the date of final stabilization. Permittees
1194 Operators with day-to-day operation operational control over SWPPP implementation
1195 shall have a copy of the plan SWPPP available at a central location on-site for the use of
1196 all operators and those identified as having responsibilities under the plan SWPPP
1197 whenever they are on the construction site. The SWPPP must be made available, in its
1198 entirety, to the department, and the permit-issuing authority, and the operator of a
1199 municipal separate storm sewer system receiving discharges from the site for review at
1200 the time of an on-site inspection. If an on-site location is unavailable to store the SWPPP
1201 when no personnel are present, notice of the SWPPP's location must be posted near the
1202 main entrance at the construction site.

1203 3. The permittee operator shall make SWPPPs available upon request to the department;
1204 the permit-issuing authority; a state or local agency approving erosion and sediment
1205 plans, grading plans, or stormwater management plans; local government officials; or the
1206 operator of a municipal separate storm sewer system receiving discharges from the site.

4. A sign or other notice must be posted conspicuously near the main entrance of the construction site. The sign or other notice must contain the following information:

a. A copy of the completed registration statement as submitted to the permit issuing authority; and

b. If the location of the SWPPP or the name and telephone number of the contact person for scheduling SWPPP viewing times has changed (i.e., is different than that submitted to the permit issuing authority in the registration statement), the current location of the SWPPP and name and telephone number of a contact person for scheduling viewing times.

For linear projects, the sign or other notice must be posted at a publicly accessible location near the active part of the construction project (e.g., where a pipeline project crosses a public road).

C. Maintaining an updated SWPPP.

1. The permittee operator shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to surface state waters and that has not been previously addressed in the SWPPP.

2. The SWPPP must be amended if during inspections or investigations by site staff the operator's qualified personnel, or by local, state or federal officials, it is determined that the discharges are causing water quality exceedances causing or contributing to an excursion above any applicable water quality standard, or the SWPPP is existing control measures are ineffective in reducing or eliminating or significantly minimizing pollutants in stormwater discharges from the construction site.

3. Based on the results of an inspection, the SWPPP must be modified revised as necessary to include additional or modified BMPs control measures designed to correct problems identified. Revisions to the SWPPP must be completed within seven calendar days following the inspection. If approval by a plan approving authority is necessary for a control measure prior to implementation and revisions to the SWPPP cannot be completed within seven days, land disturbance in the affected area shall cease and the area shall be stabilized, and revisions shall be completed within seven calendar days

1237 following approval. Implementation of these additional or modified BMPs control
1238 measures must be accomplished as described in Section II D 3 b.

1239 4. Revisions to the SWPPP must be dated and signed in accordance with Section III K.

1240 4. 5. The SWPPP must clearly identify for each measure identified in the plan, the
1241 contractor(s) or subcontractor(s) that will implement and maintain each the measure
1242 identified in the SWPPP. The SWPPP shall be amended revised to identify any new
1243 contractor that will implement a measure of the plan.

1244 D. Stormwater pollution prevention plan contents. The SWPPP shall include the following
1245 items:

1246 1. Site and activity description. Each SWPPP shall provide the following information:

1247 a. A narrative description of the nature of the construction activity, including the
1248 function of the project (e.g., low density residential, shopping mall, highway, etc.);

1249 b. The intended sequence and timing of activities that disturb soils at the site (e.g.,
1250 grubbing, excavation, grading, utilities and infrastructure installation);

1251 c. Estimates of the total area expected to be disturbed by excavation, grading, or other
1252 construction activities including off-site borrow and fill areas;

1253 d. A description of any other potential pollution pollutant sources, such as vehicle
1254 fueling, storage of fertilizers or chemicals, sanitary waste facilities, etc.;

1255 e. Identification of the nearest receiving waters at or near the construction site that
1256 will receive discharges from disturbed areas of the project;

1257 f. The location and description on of any discharge associated with industrial activity
1258 other than construction at the site. This includes stormwater discharges from
1259 dedicated asphalt plants and dedicated concrete plants that are covered by this
1260 permit;

1261 g. A legible general location map (e.g., USGS quadrangle map, a portion of a city or
1262 county map, or other map) with sufficient detail to identify the location of the
1263 construction activity and surface waters within one mile of the construction activity.

1264 g. h. A legible site map indicating identifying:

1265 (1) Directions of stormwater flow and approximate slopes anticipated after major
1266 grading activities;

1267 (2) Areas of soil disturbance and areas of the site which will not be disturbed;

1268 (3) Locations of major structural and nonstructural ~~controls~~ control measures
1269 identified in the SWPPP, including those that will be permanent ~~controls that will~~
1270 ~~remain~~ after construction activities have been completed;

1271 (4) Locations where stabilization practices are expected to occur;

1272 (5) ~~Surface water bodies (including wetlands)~~ Locations of surface waters;

1273 (6) Locations where stormwater discharges to a surface state water;

1274 (7) Locations of off-site material, waste, borrow or equipment storage areas covered
1275 by the ~~plan~~ SWPPP;

1276 (8) Locations of other potential ~~pollution~~ pollutant sources, such as vehicle fueling,
1277 storage of chemicals, sanitary waste facilities, etc.; and

1278 (9) Areas where final stabilization has been accomplished ~~and no further~~
1279 ~~construction phase permit requirements apply~~; and

1280 i. A record of the dates when major grading activities occur, when construction
1281 activities temporarily or permanently cease on a portion of the site, and when
1282 stabilization measures are initiated.

1283 2. Controls to reduce pollutants. The SWPPP shall include a description of all ~~pollution~~
1284 control measures that will be implemented as part of the construction activity to ~~control~~
1285 reduce or eliminate pollutants in stormwater discharges. For each major activity
1286 identified in the project description, the SWPPP shall clearly describe appropriate control
1287 measures, the general sequencing during the construction process in which the measures
1288 will be implemented, and which operator is responsible for the control measure's
1289 implementation.

1290 a. Erosion and sediment controls.

1291 (1) An erosion and sediment control plan or an agreement in lieu of a plan shall be
1292 approved by the appropriate plan approving authority for the land-disturbing activity
1293 in accordance with the Virginia Erosion and Sediment Control Law (§10.1-560 et

1294 seq.) and Regulations (4VAC50-30-10 et seq.). Where applicable, a plan shall be
1295 developed in accordance with board-approved annual general erosion and sediment
1296 control specifications.

1297 (2) All control measures required by the plan shall be designed, installed, and
1298 maintained in accordance with the minimum standards of the Virginia Erosion and
1299 Sediment Control Law (§10.1-560 et seq.) and Regulations (4VAC50-30-10 et seq.).

1300 ~~(1) Stabilization practices. The SWPPP shall include a description of interim and~~
1301 ~~permanent stabilization practices for the site. Site plans should ensure that existing~~
1302 ~~vegetation is preserved where attainable and that disturbed portions of the site are~~
1303 ~~stabilized. Stabilization practices may include, but are not limited to: temporary~~
1304 ~~seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative~~
1305 ~~buffer strips, protection of trees, preservation of mature vegetation, riprap, gabions,~~
1306 ~~facines, biologs and other appropriate measures. Use of impervious surfaces for~~
1307 ~~stabilization should be avoided.~~

1308 ~~(a) A record of the dates when major grading activities occur, when construction~~
1309 ~~activities temporarily or permanently cease on a portion of the site, and when~~
1310 ~~stabilization measures are initiated shall be maintained and included in the SWPPP.~~

1311 ~~(b) Except as provided in Section II D 2 a (1) (c), (d) and (e), stabilization measures~~
1312 ~~shall be initiated as soon as practicable in portions of the site where construction~~
1313 ~~activities have temporarily or permanently ceased, but in no case more than seven~~
1314 ~~days after the construction activity in that portion of the site has temporarily or~~
1315 ~~permanently ceased.~~

1316 ~~(c) Where the initiation of stabilization measures by the seventh day after~~
1317 ~~construction activity temporary or permanently ceased is precluded by snow cover or~~
1318 ~~frozen ground conditions, stabilization measures shall be initiated as soon as~~
1319 ~~practicable.~~

1320 ~~(d) Where construction activity on a portion of the site is temporarily ceased, and~~
1321 ~~earth-disturbing activities will be resumed within 30 days, temporary stabilization~~
1322 ~~measures do not have to be initiated on that portion of the site.~~

1323 (e) In drought-stricken areas where initiating perennial vegetative stabilization
1324 measures is not possible within seven days after construction activity has temporarily
1325 or permanently ceased, final vegetative stabilization measures shall be initiated as
1326 soon as practicable.

1327 (2) Structural practices. The SWPPP shall include a description of structural practices
1328 to divert flows from exposed soils, retain/detain flows or otherwise limit runoff and
1329 the discharge of pollutants from exposed areas of the site. Such practices may
1330 include, but are not limited to: silt fences, earth dikes, drainage swales, sediment
1331 traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain
1332 inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and
1333 temporary or permanent sediment basins. Structural practices should be located on
1334 upland soils to the degree attainable. The department and the permit issuing authority
1335 encourages the use of a combination of erosion and sediment control measures in
1336 order to achieve maximum pollutant removal.

1337 (a) Sediment basins: For common drainage locations that serve an area with three or
1338 more acres disturbed at one time, a temporary (or permanent) sediment basin
1339 providing 3,618 cubic feet of storage per acre drained, or equivalent control
1340 measures, shall be provided where attainable until final stabilization of the site. The
1341 3,618 cubic feet of storage area per acre drained does not apply to flows from off-site
1342 areas and flows from on-site areas that are either undisturbed or have undergone final
1343 stabilization where such flows are diverted around both the disturbed area and the
1344 sediment basin. In determining whether installing a sediment basin is attainable, the
1345 permittee may consider factors such as site soils, slope, available area on site, etc. In
1346 any event, the permittee must consider public safety, especially as it relates to
1347 children, as a design factor for the sediment basin and alternative sediment controls
1348 shall be used where site limitations would preclude a safe design.

1349 (b) For drainage locations that serve three or more acres at one time and where a
1350 temporary sediment basin or equivalent controls is not attainable, smaller sediment
1351 basins and/or sediment traps should be used. At a minimum, silt fences, vegetative
1352 buffer strips, or equivalent sediment controls are required for all down slope

boundaries, and for those side slope boundaries deemed appropriate as dictated by individual site conditions.

(e) For drainage locations serving less than three acres, smaller sediment basins or sediment traps or both should be used. At a minimum, silt fences, vegetative buffer strips or equivalent sediment controls are required for all downslope boundaries, and for those side slope boundaries deemed appropriate as dictated by individual site conditions, of the construction area unless a sediment basin providing storage for 3,618 cubic feet of storage per acre drained is provided.

b. Management practices.

~~(1) Site plans should ensure that existing vegetation is preserved where possible and that disturbed portions of the site are stabilized. Stabilization practices may include, but are not limited to: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, riprap, gabions, fascines, biologs and other appropriate measures. Use of impervious surfaces for stabilization should be avoided.~~

(1) All control measures must be properly selected, installed, and maintained in accordance with good engineering practices and, where applicable, manufacturer specifications ~~and good engineering practices~~. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the permittee operator must replace or modify the control for site situations as soon as practicable and update the SWPPP in accordance with Section II C.

(2) If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts.

(3) Litter, construction debris, and construction chemicals exposed to stormwater shall be prevented from becoming a pollutant source in stormwater discharges.

c. Stormwater management.

(1) The operator shall ensure compliance with the requirements of Part II of the Virginia Stormwater Management Regulations, including but not limited to water quality and quantity requirements. The SWPPP shall include a description of, and all necessary calculations supporting, all post-construction stormwater management

measures that will be installed during the construction process to control pollutants in stormwater discharges after construction operations have been completed. Structural measures should be placed on upland soils to the degree attainable possible. Such measures must be designed and installed in accordance with applicable local and/or state, and federal requirements, and any necessary permits must be obtained.

(2) ~~Such measures may include, but are not limited to: stormwater detention structures (including dry ponds); stormwater retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff on-site; stormwater wetlands; sand filters; bioretention systems; water quality structures; and sequential systems (which combine several practices). The SWPPP shall include an explanation of the technical basis used to select the practices to control pollution and flows that exceed predevelopment levels. Control measures contained in Part II of the Virginia Stormwater Management Regulations or on the Virginia BMP Clearinghouse may be utilized. Innovative or alternate control measures may be allowed provided such measures effectively address water quality and quantity in accordance with the requirements of Part II and are not restricted by~~ local ordinance the locality.

(3) Outflows from a stormwater management facility or stormwater conveyance system shall be discharged to an adequate channel as defined in the Virginia Erosion and Sediment Control Regulations (4VAC50-30-10 et seq.). In addition, ~~the natural, physical, chemical, and biological characteristics and functions of the receiving waters must be maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water)~~ all control measures shall be employed in a manner which minimizes impacts on the physical, chemical and biological integrity of rivers, streams and other state waters and is protective of water quality standards.

d. Other controls.

(1) The SWPPP shall describe measures to prevent the discharge of solid materials, including building materials, garbage, and debris to surface state waters ~~of the state~~, except as authorized by a Clean Water Act §404 permit.

1412 ~~(2) Where construction vehicle access routes intersect paved public roads, provisions~~
1413 ~~shall be made to minimize the transport of sediment by vehicular tracking onto the~~
1414 ~~paved surface. Where sediment is transported onto a public road surface, the road~~
1415 ~~shall be cleaned thoroughly at the end of each day. Sediment shall be removed from~~
1416 ~~the roads by shoveling or sweeping and transported to a sediment control disposal~~
1417 ~~area. Street washing shall be allowed only after sediment is removed in this manner.~~

1418 ~~(3)~~ (2) The SWPPP shall ensure and demonstrate compliance comply with applicable
1419 state or local waste disposal, sanitary sewer or septic system regulations.

1420 ~~(4)~~ (3) The SWPPP shall include a description of construction and waste materials
1421 expected to be stored on-site with updates as appropriate. The plan SWPPP shall also
1422 include a description of controls ~~to reduce pollutants from these materials~~, including
1423 storage practices, to minimize exposure of the materials to stormwater, and for spill
1424 prevention and response.

1425 ~~(5)~~ (4) The SWPPP shall include a description of pollutant sources from areas other
1426 than construction (including stormwater discharges from dedicated asphalt plants and
1427 dedicated concrete plants), and a description of controls and control measures that
1428 will be implemented at those sites to minimize reduce or eliminate pollutant
1429 discharges.

1430 e. Applicable state or local programs.

1431 The SWPPP control measures implemented at the site shall be consistent with all
1432 applicable federal, state or local requirements for erosion and sediment control and
1433 stormwater management. ~~including updates to the~~ The SWPPP shall be updated as
1434 necessary to reflect any revisions to applicable federal, state or local requirements ~~for~~
1435 ~~erosion and sediment control and that affect the stormwater management control~~
1436 ~~measures implemented at the site.~~

1437 3. Maintenance of controls.

1438 a. ~~The SWPPP must include a description and schedule of procedures to maintain in~~
1439 ~~good and effective operating conditions vegetation, erosion and sediment control~~
1440 ~~measures and other protective measures during construction identified in the site plan.~~
1441 All control measures must be properly maintained in effective operating condition in

1442 accordance with good engineering practices and, where applicable, manufacturer
1443 specifications. If site inspections required by Section II D 4 identify BMPs that are
1444 not operating effectively, maintenance shall be performed before the next anticipated
1445 storm event, or as soon as practicable to maintain the continued effectiveness of
1446 stormwater controls.

1447 b. If site inspections required by Section II D 4 identify existing BMPs control
1448 measures need to be modified or if additional BMPs control measures are necessary
1449 for any reason, implementation shall be completed before the next anticipated storm
1450 event. If implementation before the next anticipated storm event is impracticable, the
1451 situation shall be documented in the SWPPP and alternative BMPs control measures
1452 shall be implemented as soon as practicable.

1453 4. Inspections. The name and phone number of qualified personnel conducting
1454 inspections shall be included in the SWPPP. Inspections by qualified personnel must be
1455 conducted of all areas of the site disturbed by construction activity, and areas used for
1456 storage of materials that are exposed to stormwater. "Qualified personnel" means a
1457 licensed professional engineer, responsible land disturber (RLD), or other knowledgeable
1458 person that (i) holds a certificate of competence from the board in the area of project
1459 inspection; or (ii) is enrolled in the board's training program for project inspection or
1460 combined administrator and successfully completes such program within one year of
1461 enrollment.

1462 a. Inspections shall be conducted (i) at least every seven calendar days or (ii) at least
1463 once every 14 calendar days and within 48 hours of the end of following any runoff
1464 producing storm event. Where areas have been finally or temporarily stabilized or
1465 runoff is unlikely due to winter conditions (e.g., the site is covered with snow or ice,
1466 or frozen ground exists) such inspections shall be conducted at least once every
1467 month.

1468 b. Inspections must include all areas of the site disturbed by construction activity and
1469 areas used for storage of materials that are exposed to precipitation. Inspectors must
1470 look for evidence of, or the potential for, pollutants entering the stormwater
1471 conveyance system. Erosion and sediment control Control measures identified in the
1472 SWPPP shall be observed to ensure proper operation. Discharge locations, where

1473 accessible, shall be inspected to ascertain whether ~~erosion and sediment~~ control
1474 measures are effective in preventing significant impacts to receiving waters. Where
1475 discharge locations are inaccessible, nearby downstream locations shall be inspected
1476 to the extent that such inspections are practicable. Locations where vehicles enter or
1477 exit the site shall be inspected for evidence of off-site sediment tracking.

1478 c. Utility line installation, pipeline construction, and other examples of long, narrow,
1479 linear construction activities may limit the access of inspection personnel to the areas
1480 described in Section II D 4 b. Inspection of these areas could require that vehicles
1481 compromise temporarily or even permanently stabilized areas, cause additional
1482 disturbance of soils, and increase the potential for erosion. In these circumstances,
1483 controls must be inspected on the same frequencies as other construction projects, but
1484 representative inspections may be performed. For representative inspections,
1485 personnel must inspect controls along the construction site for 0.25 miles above and
1486 below each access point where a roadway, undisturbed right-of-way, or other similar
1487 feature intersects the construction site and allows access to the areas described above.
1488 The conditions of the controls along each inspected 0.25-mile segment may be
1489 considered as representative of the condition of controls along that reach extending
1490 from the end of the 0.25-mile segment to either the end of the next 0.25-mile
1491 segment, or to the end of the project, whichever occurs first. Inspection locations
1492 must be listed in the report required by Section II D 4 e.

1493 d. ~~Based on the results of the inspection, the site and activity description identified in~~
1494 ~~the plan in accordance with Section II D 1 of this permit and pollution prevention~~
1495 ~~measures identified in the SWPPP in accordance with Section II D 2 of this permit~~
1496 ~~shall be revised as appropriate within seven calendar days following the inspection.~~
1497 The SWPPP must be modified as necessary to properly document additional or
1498 modified control measures designed to correct problems identified. Revisions to the
1499 SWPPP must be completed within seven calendar days following the inspection.
1500 Implementation of these additional or modified control measures must be
1501 accomplished as described in Section II D 3 b.

1502 e. A report summarizing the scope of the inspection, names and qualifications of
1503 personnel making the inspection, the dates of the inspection, major observations

relating to the implementation of the SWPPP, and actions taken in accordance with Section II D 4 d of the permit shall be made and retained as part of the SWPPP in accordance with Section III B of this permit. Major observations should include:

- (1) The location(s) of discharges of sediment or other pollutants from the site;
- (2) Location(s) of BMPs control measures that need to be maintained;
- (3) Location(s) of BMPs control measures that failed to operate as designed or proved inadequate for a particular location;
- (4) Location(s) where additional BMPs control measures are needed that did not exist at the time of inspection; ~~and~~
- (5) Corrective action required including any changes to the SWPPP that are necessary and implementation dates~~;~~;
- (6) Weather information for the period since the last inspection (or since commencement of construction activity if the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether any discharges occurred; and
- (7) Weather information and a description of any discharges occurring at the time of inspection.

A record of each inspection and of any actions taken in accordance with Section II must be retained by the operator as part of the SWPPP for at least three years from the date that permit coverage expires or is terminated. The inspection reports shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the stormwater pollution prevention plan-SWPPP and this permit. The report shall be signed in accordance with Section III K of this permit.

5. Nonstormwater discharge management. The SWPPP shall identify all allowable sources of nonstormwater discharges listed in Section I D 2 of this permit that are combined with stormwater discharges from the construction activity at the site, except for flows from fire fighting activities. The SWPPP shall identify and ~~ensure~~ require the

implementation of appropriate ~~pollution prevention control~~ measures for the nonstormwater components of the discharge.

6. Endangered Species. The SWPPP shall include the following documentation with regard to endangered species:

a. Information on whether federally-listed endangered or threatened species, or federally-designated critical habitat may be in the project area;

b. Whether such species or critical habitat may be adversely affected by stormwater discharges or stormwater discharge-related activities from the project;

c. Any correspondence for any stage of project planning between the U.S. Fish and Wildlife Service (FWS), EPA, the U.S. National Marine Fisheries Service (NMFS), or others and the operator regarding listed species and critical habitat;

and

d. A description of measures that will be implemented to protect federally-listed endangered or threatened species, or federally-designated critical habitat.

7. Total Maximum Daily Loads. A total maximum daily load (TMDL) approved by the State Water Control Board may include a wasteload allocation to the regulated land disturbing activity that identifies the pollutant for which stormwater controls are necessary for the surface waters to meet water quality standards. The pollutant identified in a wasteload allocation as of the effective date of this permit must be specified in the SWPPP and addressed through the use of strategies and control measures as specified in the SWPPP. Implementation of the strategies and control measures consistent with the provisions of this permit constitutes compliance with the assumptions of the approved TMDL, ensures compliance by the operator with water quality standards, and satisfies the appropriate water quality requirements of the Clean Water Act and regulations. A wasteload allocation does not establish that the operator of a land disturbing activity is in or out of compliance with the conditions of this permit.

The operator shall update the SWPPP to include strategies and control measures to ensure consistency with the assumptions of the TMDL WLA within 30 days of permit coverage; or, within 30 days of the effective date of any reopening of this permit to include wasteloads allocated to the land disturbing activity after issuance of permit coverage and shall implement such strategies and control measures.

8. Impaired waters. The operator shall evaluate the effectiveness of control measures in addressing discharges into waters that are identified as impaired in the 2006 305(b)/303(d) Water Quality Assessment Integrated Report and update the SWPPP and implement such strategies and control measures as necessary to address the impairment.

SECTION III

CONDITIONS APPLICABLE TO ALL VSMP PERMITS

NOTE: Monitoring is not required for this permit. If ~~you~~ the operator choose chooses to monitor ~~your~~ stormwater discharges or ~~BMPs control measures~~, ~~you~~ the operator must comply with the requirements of subsections A, B, and C, as appropriate.

A. Monitoring.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitoring activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 (2001) or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The ~~permittee operator~~ shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. ~~Records of monitoring information~~ Monitoring records/reports shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) and time(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
2. The ~~permittee operator~~ shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous

monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee operator, or as requested by the board.

C. Reporting monitoring results.

1. The permittee operator shall ~~submit~~ update the SWPPP to include the results of the monitoring required by this permit ~~not later than the 10th day of the month after monitoring takes place~~, unless another reporting schedule is specified elsewhere in this permit. ~~Monitoring results shall be submitted to the permit-issuing authority.~~

2. Monitoring results shall be reported on a discharge monitoring report (DMR) ~~or~~ on forms provided, approved or specified by the department; or in any format provided the date, location, parameter, method, and result of the monitoring activity are included.

3. If the permittee operator monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 (2001) or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee operator shall furnish ~~to the permit-issuing authority~~, within a reasonable time, any information which the board, department, or other permit-issuing authority may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board, department, or other permit-issuing authority may require the permittee operator to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the CWA and the Virginia

1623 Stormwater Management Act. The permittee operator shall also furnish to the board, department,
1624 or other permit-issuing authority, upon request, copies of records required to be kept by this
1625 permit.

1626 E. Compliance schedule reports. Reports of compliance or noncompliance with, or any
1627 progress reports on, interim and final requirements contained in any compliance schedule of this
1628 permit shall be submitted no later than 14 days following each schedule date.

1629 F. Unauthorized stormwater discharges. ~~Except in compliance with this permit or another~~
1630 ~~permit issued by the permit issuing authority or the Department of Environmental Quality, it~~
1631 ~~shall be unlawful for any person to:~~

1632 ~~1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or~~
1633 ~~deleterious substances; or~~

1634 ~~2. Otherwise alter the physical, chemical or biological properties of such state waters and~~
1635 ~~make them detrimental to the public health, or to animal or aquatic life, or to the use of~~
1636 ~~such waters for domestic or industrial consumption, or for recreation, or for other uses.~~

1637 Pursuant to §10.1-603.2:2 A of the Code of Virginia, except in compliance with a permit issued
1638 by the permit issuing authority, it shall be unlawful to cause a stormwater discharge from a land
1639 disturbing activity.

1640 G. Reports of unauthorized discharges. Any permittee operator who discharges or causes or
1641 allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious
1642 substance or a hazardous substance or oil in an amount equal to or in excess of a reportable
1643 quantity established under either 40 CFR Part 110 (2002), 40 CFR Part 117 (2002) or 40 CFR
1644 Part 302 (2002) that occurs during a 24-hour period into or upon state waters ~~in violation of~~
1645 ~~Section III F,~~ or who discharges or causes or allows a discharge that may reasonably be expected
1646 to enter state waters ~~in violation of Section III F,~~ shall notify the ~~department, the~~ Department of
1647 Environmental Quality, ~~and the permit issuing authority~~ of the discharge immediately upon
1648 discovery of the discharge, but in no case later than within 24 hours after said discovery. A
1649 written report of the unauthorized discharge shall be submitted to the department, the
1650 Department of Environmental Quality, and the permit-issuing authority within five days of
1651 discovery of the discharge. The written report shall contain:

1652 1. A description of the nature and location of the discharge;

- 1653 2. The cause of the discharge;
- 1654 3. The date on which the discharge occurred;
- 1655 4. The length of time that the discharge continued;
- 1656 5. The volume of the discharge;
- 1657 6. If the discharge is continuing, how long it is expected to continue;
- 1658 7. If the discharge is continuing, what the expected total volume of the discharge will be;
- 1659 and
- 1660 8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present
- 1661 discharge or any future discharges not authorized by this permit.
- 1662 Discharges reportable to the department, the Department of Environmental Quality, and
- 1663 the permit-issuing authority under the immediate reporting requirements of other
- 1664 regulations are exempted from this requirement.
- 1665 H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge
- 1666 including a “bypass” or “upset”, as defined herein, should occur from a facility and the discharge
- 1667 enters or could be expected to enter state waters, the permittee operator shall promptly notify, in
- 1668 no case later than within 24 hours, the department, the Department of Environmental Quality,
- 1669 and the permit-issuing authority by telephone after the discovery of the discharge. This
- 1670 notification shall provide all available details of the incident, including any adverse effects on
- 1671 aquatic life and the known number of fish killed. The permittee operator shall reduce the report
- 1672 to writing and shall submit it to the department, the Department of Environmental Quality, and
- 1673 the permit-issuing authority within five days of discovery of the discharge in accordance with
- 1674 Section III I 2. Unusual and extraordinary discharges include but are not limited to any discharge
- 1675 resulting from:
- 1676 1. Unusual spillage of materials resulting directly or indirectly from processing
- 1677 operations;
- 1678 2. Breakdown of processing or accessory equipment;
- 1679 3. Failure or taking out of service some or all of the facilities; and
- 1680 4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee operator shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report to the department, the Department of Environmental Quality, and the permit-issuing authority shall be provided within 24 hours from the time the permittee operator becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:

a. Any unanticipated bypass; and

b. Any upset that causes a discharge to surface state waters.

2. A written report shall be submitted within five days and shall contain:

a. A description of the noncompliance and its cause;

b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The permit-issuing authority may waive the written report on a case-by-case basis for reports of noncompliance under Section III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee operator shall report all instances of noncompliance not reported under Section III I 1 or 2 in writing at the time the next monitoring reports are submitted as part of the SWPPP. The reports shall contain the information listed in Section III I 2.

NOTE: The immediate (within 24 hours) reports required to be provided to the Department of Environmental Quality in Section III G, H and I may be made to the department's Urban Stormwater Program Program's Section of the Division of Soil and Water Conservation, appropriate Department of Environmental Quality's Regional Office Pollution Response Program, and the permit issuing authority. Reports may be made by telephone or by fax. For reports outside normal working hours, leaving a recorded message shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at **1-800-468-8892**.

4. Where the permittee operator becomes aware ~~that it failed~~ of a failure to submit any relevant facts ~~in a permit application~~, or ~~submitted submittal of~~ incorrect information ~~in a permit application or~~ in any report to the department ~~or the permit-issuing authority~~, ~~it the~~ operator shall promptly submit such facts or correct information.

J. Notice of planned changes.

1. The permittee operator shall give notice to the permit-issuing authority as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee operator plans an alteration or addition to any building, structure, facility, or installation ~~from which there is or may be a discharge of pollutants, the construction of which commenced:~~

~~(1) After promulgation of standards of performance under §306 of the federal Clean Water Act that are applicable to such source; or~~

~~(2) After proposal of standards of performance in accordance with §306 of the Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with §306 within 120 days of their proposal which may meet one of the criteria for determining whether a facility is a new source in 4VAC50-60-420;~~

b. The operator plans alteration or addition ~~could~~ that would significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this permit; or

2. The permittee operator shall give advance notice to the permit-issuing authority of any planned changes in the permitted facility or activity; ~~that~~ which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section part, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for

the corporation; or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term ~~environmental~~ compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this ~~section-part~~, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, including SWPPPs, and other information requested by the board, the department, or the permit issuing authority shall be signed by a person described in Section III K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Section III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the ~~company~~ operator. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

1770 c. The signed and dated written authorization is submitted to the department included
1771 in the SWPPP. A copy must be provided to the permit issuing authority, if requested.

1772 3. Changes to authorization. If an authorization under Section III K 2 is no longer
1773 accurate because a different individual or position has responsibility for the overall
1774 operation of the facility land disturbing activity, a new authorization satisfying the
1775 requirements of Section III K 2 shall be submitted to the permit-issuing authority prior to
1776 or together with any reports or information to be signed by an authorized representative.

1777 4. Certification. Any person signing a document under Section III K 1 or 2 shall make the
1778 following certification:

1779 "I certify under penalty of law that this document and all attachments were prepared
1780 under my direction or supervision in accordance with a system designed to assure that
1781 qualified personnel properly gather gathered and evaluate evaluated the information
1782 submitted. Based on my inquiry of the person or persons who manage the system, or
1783 those persons directly responsible for gathering the information, the information
1784 submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am
1785 aware that there are significant penalties for submitting false information, including the
1786 possibility of fine and imprisonment for knowing violations."

1787 L. Duty to comply. The permittee operator shall comply with all conditions of this permit.
1788 Any permit noncompliance constitutes a violation of the Virginia Stormwater Management Act
1789 and the Clean Water Act, except that noncompliance with certain provisions of this permit may
1790 constitute a violation of the Virginia Stormwater Management Act but not the Clean Water Act.
1791 Permit noncompliance is grounds for enforcement action; for permit termination, revocation and
1792 reissuance, or modification; or denial of a permit renewal application.

1793 The permittee operator shall comply with effluent standards or prohibitions established under
1794 §307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations
1795 that establish these standards or prohibitions or standards for sewage sludge use or disposal, even
1796 if this permit has not yet been modified to incorporate the requirement.

1797 M. Duty to reapply. If the permittee operator wishes to continue an activity regulated by this
1798 permit after the expiration date of this permit, the permittee operator shall submit a new
1799 registration statement at least 90 days before the expiration date of the existing permit, unless

1800 permission for a later date has been granted by the board. The board shall not grant permission
1801 for registration statements to be submitted later than the expiration date of the existing permit.

1802 N. Effect of a permit. This permit does not convey any property rights in either real or
1803 personal property or any exclusive privileges, nor does it authorize any injury to private property
1804 or invasion of personal rights, or any infringement of federal, state or local law or regulations.

1805 O. State law. Nothing in this permit shall be construed to preclude the institution of any legal
1806 action under, or relieve the permittee operator from any responsibilities, liabilities, or penalties
1807 established pursuant to any other state law or regulation or under authority preserved by §510 of
1808 the Clean Water Act. Except as provided in permit conditions on "bypassing" (Section III U),
1809 and "upset" (Section III V) nothing in this permit shall be construed to relieve the permittee
1810 operator from civil and criminal penalties for noncompliance.

1811 P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude
1812 the institution of any legal action or relieve the permittee operator from any responsibilities,
1813 liabilities, or penalties to which the permittee operator is or may be subject under §§62.1-
1814 44.34:14 through 62.1-44.34:23 of the State Water Control Law or § 311 of the Clean Water Act.

1815 Q. Proper operation and maintenance. The permittee operator shall at all times properly
1816 operate and maintain all facilities and systems of treatment and control (and related
1817 appurtenances), ~~that~~ which are installed or used by the permittee operator to achieve compliance
1818 with the conditions of this permit. Proper operation and maintenance also includes effective plant
1819 performance, adequate funding, adequate staffing, and adequate laboratory and process controls,
1820 including appropriate quality assurance procedures. This provision requires the operation of
1821 back-up or auxiliary facilities or similar systems, ~~that~~ which are installed by the permittee
1822 operator only when the operation is necessary to achieve compliance with the conditions of this
1823 permit.

1824 R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of
1825 treatment or management of pollutants shall be disposed of in a manner so as to prevent any
1826 pollutant from such materials from entering state waters.

1827 S. Duty to mitigate. The permittee operator shall take all reasonable steps to minimize or
1828 prevent any discharge in violation of this permit that has a reasonable likelihood of adversely
1829 affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee an operator in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass", as defined in 4VAC50-60-10, means the intentional diversion of waste streams from any portion of a treatment facility. The permittee operator may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Section III U 2 and 3.

2. Notice.

a. Anticipated bypass. If the permittee operator knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee operator shall submit notice of an unanticipated bypass as required in Section III I.

3. Prohibition of bypass.

a. Bypass is prohibited, and the permit-issuing authority may take enforcement action against a permittee operator for bypass unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee operator submitted notices as required under Section III U 2.

b. The permit-issuing authority may approve an anticipated bypass, after considering its adverse effects, if the permit-issuing authority determines that it will meet the three conditions listed in Section III U 3 a.

V. Upset.

1. An upset, as defined in 4VAC50-60-10, constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Section III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

23. A permittee operator who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

a. An upset occurred and that the permittee operator can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee operator submitted notice of the upset as required in Section III I; and

d. The permittee operator complied with any remedial measures required under Section III S.

34. In any enforcement proceeding, the permittee operator seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee operator shall allow the director department as the board's designee, the permit issuing authority, or an authorized representative of either (including an authorized contractor acting as a representative of the administrator), upon presentation of credentials and other documents as may be required by law to:

1. Enter upon the permittee's operator's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the Clean Water Act and the Virginia Stormwater Management Act, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee operator for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the permit-issuing authority. Except as provided in Section III Y 2, a permit may be transferred by the permittee operator to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee operator and incorporate such other requirements as may be necessary under the Virginia Stormwater Management Act and the Clean Water Act.
2. As an alternative to transfers under Section III Y 1, this permit may be automatically transferred to a new permittee operator if:
 - a. The current permittee operator notifies the permit-issuing authority at least 30 days in advance of the proposed transfer of the title to the facility or property;
 - b. The notice includes a written agreement between the existing and new permittees operators containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

1919 c. The permit-issuing authority does not notify the existing permittee operator and the
1920 proposed new permittee operator of its intent to modify or revoke and reissue the
1921 permit. If this notice is not received, the transfer is effective on the date specified in
1922 the agreement mentioned in Section III Y 2 b.

1923 3. For ongoing construction activity involving a change of operator, the new operator
1924 shall accept and maintain the existing SWPPP, or prepare and implement a new SWPPP
1925 prior to taking over operations at the site.

1926 Z. Severability. The provisions of this permit are severable, and if any provision of this
1927 permit or the application of any provision of this permit to any circumstance, is held invalid, the
1928 application of such provision to other circumstances and the remainder of this permit shall not be
1929 affected thereby.

1930

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